

Serial No. 09/974,521

REMARKS**I. Status of the Application:**

In the Office Action mailed January 26, 2005 (the "Office Action"), claims 1 – 12 were rejected under Section 103(a) as being unpatentable over Merrymand et al. U.S. Patent No. 5,553,298 (hereinafter referred to as "Merrymand" or the "Merrymand reference") in view of Hirabayashi U.S. Patent No. 6,549,936 (hereinafter referred to as "Hirabayashi" or the "Hirabayashi reference") (Office Action points 2 – 12).

As this Amendment and Response is filed after 6 months from the mailing date of the Office Action and because the application was unintentionally abandoned, a petition and fee to revive the application is filed concurrently herewith.

Upon entry of this amendment, claims 1, 3 – 7, and 9 – 11 have been amended, with claims 1 – 12 remaining pending. Each of the independent claims 1, 7, 9 and 11 have been amended to be more specific in differentiating the claimed invention from the prior art.

Applicants respectfully traverse the rejection of claims 1 – 12 under Section 103. Applicants respectfully request reconsideration of the pending claims in view of the foregoing amendments and the following remarks.

II. The Rejection of Claims 1 – 12 under Section 103 Should Be Withdrawn:

Independent claim 1 has been amended to recite that the first processor is dedicated "solely to the allocation of resources to one or more other processors." Support for this amendment to claim 1 can be found in paragraph [0024] of the specification, where the specification states that "unlike conventional multi-processor systems wherein all processors may undertake resource allocation, dedicated processor 102 is solely dedicated to resource allocation and to the task of parsing and interpreting the contents of script file 106." (Emphasis added.)

Referring now to the Merryman reference, in column 3, beginning at line 33, Merryman states that "[his] invention is based on the principle that a primary processor in the system automatically has priority to one or more resources, and [that] all other processors, [which are] referred to as a "secondary processors," cannot have access to [a] resource until...the primary processor does not want the resource."

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In column 6, beginning at line 36, the Merryman specification states that "each processor 12 can access every resource 14. The processors are stated as being able to interact asynchronously and resource usage is not under the control of a single operating system. Rather, control is based on system status variables reciting in each processor 12 (self-directed), as described below."

The foregoing passages of Merryman establish that all of the processors of Merryman can access system resources.

In column 5, at line 54, Merryman states that FIG. 1 is a block diagram of a distributed system embodying features of the invention. None of the processors 12 shown in FIG. 1 are distinguishable. Put another way, the processors 12 in FIG. 1 are equal to each other.

While Merryman admittedly discloses a plurality of processors in a distributed processing network, Merryman does not show or suggest that one processor is dedicated "solely to the allocation of resources to one or more other processors" as the pending independent claims now require.

As for the other claims, claim 3 as filed was dependent on itself. It has been amended to make the claim depend from claim 2. Claim 4 has been amended to broaden its coverage to recite that the resources encompassed by claim 1 can be either a memory or a matrix configuration or both. Claims 5 and 6 have been superficially amended to recite that "the information" is "in the script" to make the claims more clear.

Like claim 1, independent claims 7, 9 and 11 have been amended to recite that one of the processors is dedicated to resource allocation.

Since neither Merryman nor Hiabayashi show or suggest a multiprocessing computing environment, or a multiprocessor, one processor of which is dedicated "solely to the allocation of resources to one or more other processors" the claims as amended are believed to be allowable over the prior art cited by the Examiner.

As a consequence, the Merryman and Hirabayashi reference, alone or in combination with each other, do not disclose and do not suggest these claimed features of the present invention. In addition, there is no motivation to combine these references. The mere fact that the references could be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the

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combination. *In re Mills*, 916 F.2d 680 (Fed. Cir. 1990). In addition, identification of any individual part claimed is insufficient to defeat patentability of the whole claimed invention. See *In re Kotzab*, 217 F.3d 1365 (Fed. Cir. 2000). Accordingly, no *prima facie* showing of potential anticipation or obviousness has been made, and any assertions to the contrary have been clearly rebutted. *In re Rouffet*, 149 F.3d 1350 (Fed. Cir. 1998); *In re Mills*, 916 F.2d 680 (Fed. Cir. 1990). The rejection of independent claims 1, 7, 9 and 11 as obvious under Section 103, therefore, should be withdrawn.

None of the cited references disclose or suggest the claimed elements of the present invention. More specifically, the various references, alone or in combination with each other, do not disclose and do not suggest the claimed features of the invention, as specifically claimed in the independent claims 1, 7, 9 and 11 as amended.

The present invention, therefore, is not rendered obvious by these references under Section 103, and the rejection of the claims should be withdrawn. In addition, because the remaining dependent claims incorporate by reference all of the limitations of the corresponding independent claims, all of the dependent claims are also allowable over the cited references.

The Applicant respectfully submits that the present claims are in condition for allowance. On the basis of the above amendments and remarks, reconsideration and allowance of the application is believed to be warranted, and an early action toward that end is respectfully solicited. In addition, for any issues or concerns, the Examiner is invited to call the attorney for the applicant at the telephone number provided below.

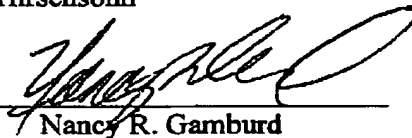
Respectfully submitted,

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By



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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that the foregoing Amendment and Response (8 pages),
 Petition to Revive an Unintentionally Abandoned Application (PTO/SB/64) (2 pages),
 Declaration of Gerald T. Gray (2 pages, with 2 pages of Exhibit A), Statement In Support
 5 Of Petition To Revive Unintentionally Abandoned Application (3 pages), Transmittal
 (PTO/SB/21) (1 page), Fee Transmittal (PTO/SB/17) (1 page), and Power of Attorney
 (PTO/SB/80 and PTO/SB/96) (2 pages) (21 pages total), for Ian Hirschsohn, U.S. Patent
 Application Serial No. 09/974,521, entitled "Predictive Resource Allocation in
 Computing Systems", have been transmitted by facsimile to the US Patent and
 10 Trademark Office to fax number (571) 273-8300 (Centralized Facsimile Number), on
 September 24, 2006.

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